

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

JORDAN RUNDELL,)	ED103112
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable Theresa Counts Burke
DIRECTOR OF REVENUE,)	
)	
Appellant.)	FILED: April 19, 2016

The Director of Revenue of the State of Missouri ("Director") appeals from the trial court's judgment, following a trial *de novo*, ordering Director to remove the administrative-alcohol suspension from Jordan Rundell's ("Driver's") driving record and to reinstate Driver's driving privileges.

REVERSED AND REMANDED.

Division One Holds: The plain meaning of "or" in 19 CSR 25-30.051(5) requires only proof that one compressed ethanol-gas value was used to verify and calibrate a breath analyzer in order for the breath test to be valid. For a test conducted on a breath analyzer after February 28, 2014, there is no longer a requirement of proof that the breath analyzer was calibrated and verified using all three compressed ethanol-gas values listed. The compressed ethanol-gas value identified on the maintenance report for the calibration and verification of the breath analyzer was an approved value under 19 CSR 25-30.051. We reverse and remand with instructions to enter a judgment affirming Director's revocation of Driver's driving privileges.

Opinion by: Roy L. Richter, J.

Robert G. Dowd, Jr., P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: CHRIS KOSTER, Daniel N. McPherson

Attorney for Respondent: Charles Billings

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
